the injury. That this distinction is recognized and made the basis for arriving at different results is illustrated by the case of *Chipman* v. *Palmer* (1879) 77 N. Y. 51, practically identical in facts and holding with the Ohio case, though in the same jurisdiction with the Colegrove case.

The additional test of joint-liability as illustrated by the Colegrove and analogous cases may be supported whether the injury is a natural and probable consequence of the respective negligent acts of the defendants or whether the amount of injury is far in excess of anything which a reasonable man could, in theory of law, be required to foresee. If the entire injury follows naturally from the negligence, it is obviously proper to hold either defendant for the whole damage, *Village of Cartersville* v. *Cook* (1889) 129 Ill. 152, and to avoid a multiplicity of actions a joint suit is perhaps justifiable. Where, however, the injury far exceeds the natural and probable consequences of either act alone it is equally clear that an action against any one defendant for the entire damage, on the ordinary principles of negligence, would not be maintainable. But the inherent impossibility in this class of cases of separating and proving the quantum of injury done by each party seems to justify giving the plaintiff a joint action, *Slater* v. *Mersereau* (1876) 64 N. Y. 138. If the interests of the plaintiff, however, demand this result, justice to the defendants seems to require that the one who has been compelled to pay for the entire damage should be allowed contribution from the other. This point has not been the subject of decision, but an exception to the general rule that there is no contribution among joint tortfeasors seems justifiable here for reasons analogous to those advanced in the cases where, notwithstanding the rule, contribution has been allowed, that is, where there was no conscious wrongdoing by the party held for the entire damage, *Bailey* v. *Bussing* (1859) 28 Conn. 455. With these conclusions it is proper to notice, under circumstances like those in the Ohio case, a distinction, the ignoring of which has led to some confusion, between an action at law for damages where there is properly no joint-liability and a bill in equity to restrain the continuing wrongful acts of several defendants which together cause the plaintiff an injury. In the latter case it is held proper to join the several wrongdoers and enjoin all their acts in one decree. This distinction was pointed out in *Chipman* v. *Palmer*, supra, and has been generally adopted. *Thorpe* v. *Brumfitt* (1873) L. R. 8 Ch. App. 650; *Hillman* v. *Newington* (1880) 57 Cal. 56.

CORPORATE LIABILITY FOR AGENTS' FRAUDULENT DEALING WITH STOCK.—Few branches of the law have produced a judicial conflict so remarkable for its persistence and vigor as that branch involving the liability of a principal for the fraud of his agent upon the ground of estoppel. In general two doctrines stand out in sharp contrast. In England the principal will not be bound unless the act be not only within the apparent authority but also for the principal's benefit. *Barwick* v. *English Joint Stock Bank* (1867) L. R. 2 Ex. 259.

Originating in New York, the sounder doctrine declares that if the act be within the apparent authority the intention of the agent is immaterial, *Bank* v. *Aymar* (1842) 3 Hill 262. Coming more particularly to the liability of a corporation for the fraudulent issuing of stock the same difference occurs, the leading English cases denying corporate liability where the fraud is not for the principal's benefit, *British Banking Co.* v. *Charnwood Forest Ry. Co.* (1887) 18 Q. B. D. 714; the New York courts binding the corporation whenever the act of the agent is within the holding out. *N. Y., N. H. & H. Ry. Co.* v. *Schuyler* (1865) 34 N. Y. 30. A decision recently reached in England is not only in conflict with the former doctrine obtaining there but in advance of any holding under the New York rule. The secretary of the defendant corporation requested the plaintiffs to arrange a loan for him upon 5,000 shares of the stock of the corporation which he claimed to own in part and which was outstanding in his co-owner's name. The plaintiffs negotiated the loan and the secretary handed over the certificate, it purporting to have been executed by "E. Storey" as transferor. The certificate was in form regular, signed by two directors as required in the by-laws, sealed and countersigned by the secretary. In fact the names of the directors had been forged. It was held that the defendant is estopped to deny its liability. *Ruben & Ladenburg* v. *Fingall Consolidated et al.* (K. B. 1904) 20 T. L. R. 241.

In order to classify this decision it becomes necessary to make a comparative analysis of the cases wherein the agents' fraudulent dealing with the stock has been involved. These may be considered in four groups. (1) Where the agent purporting to act as agent issues spurious stock. In this case, upon sound principle, the corporation should be liable, the agent being clothed with apparent authority to issue stock. *N. Y., N. H. & H. Ry. Co.* v. *Schuyler*, supra. (2) Where the by-laws require the signatures of other officers and the agent purporting to act as agent forges the required signatures and issues the stock to a bona fide purchaser. It may be argued that the forgery should not change the case from the first class; that it was within the apparent authority to make the final declarations as to the validity of the stock and to represent that all the prerequisites to its validity had been complied with. *Fifth Ave. Bank* v. *Forty-Second St. R. R. Co.* (1893) 137 N. Y. 231. On the other hand it may be said that the very reason for the requirement of countersigning was to place it beyond the power of any one agent to bind the corporation by his fraud and that it was not within the transfer agent's apparent authority to represent that the signatures on the certificate were valid. This would appear to be the sounder view. (3) Where the agent, still purporting to act as agent having forged the required signatures does not issue the certificate but assigns it as an outstanding certificate using a fictitious name or the name of some stockholder. Here although he purports to act as agent yet the act is outside his apparent authority which was to issue stock and not to assign and deliver outstanding stock and this distinguishes the case from those in the second class. *Second National Bank* v. *Curtiss* (1896) 2 App. D. 508. (4) Where the agent issues the forged stock as in the second class but under circumstances wherein it is known to

the third party that he is acting in a personal transaction undertaken for his own benefit. Here the officer is not purporting to act as agent and this distinguishes the case from those in the second class although the act is the same. *Manhattan Life Ins. Co.* v. *Forty-Second St. Ry. Co.* (1893) 139 N. Y. 146. Summarizing, then, it appears that in the first class the officer purporting to act as agent does an act within his holding out; in the second he purports to act as agent sed quære as to whether the issuing of the forged certificate is within his holding out; in the third still purporting to act as agent he acts outside his apparent authority and in the fourth he does not act as agent even assuming that the act of issuing the forged certificate would be within his apparent authority. Recalling the facts of the principal case in which the officer acting in a personal transaction and so understood by the plaintiff, did not purport to issue the forged certificate but to assign it as outstanding stock it will be seen that neither principle nor precedent may be invoked for its support. It is not within the second class since he neither purported to act as agent nor acted within his apparent authority. Even assuming that he acted as agent it would be contrary to the rule in the third class since the act was outside his apparent authority, and again even assuming that he did an act within his apparent authority, in conflict with the rule in the fourth class since he was not acting as agent. The court regrets its decision but deems itself bound by the case of *Shaw* v. *Port Phillip Mining Co.* (1884) 13 Q. B. D. 103. But in this case the officer purporting to act as agent issued the forged certificate instead of assigning outstanding shares in a personal transaction and the case falls within the second class and is in accord with *Fifth Ave. Bank* v. *Forty-Second St. R. R. Co.*, supra.

LEGAL MONOPOLIES AND CONTRACTS IN RESTRAINT OF TRADE.—Patents and copyrights are the classical examples of perfect monopolies and where they are concerned there is a relaxation of the restrictions imposed by public policy on contracts in restraint of trade. The fact that the contract fixes the price at which patented articles shall be sold, confines their sale to a limited territory, or restricts their output, does not render it illegal, since these are rights included in the monopoly granted by the government, *Bement* v. *National Harrow Co.* (1902) 186 U. S. 70. And this is so notwithstanding the fact that these restrictions are generally held illegal when such contracts are made with reference to unpatented articles, *Arnot* v. *P. & E. Coal Co.* (1877) 68 N. Y. 558; 2 COLUMBIA LAW REVIEW 166. Trade unprotected by patents may also be unlawfully restrained by the imposition of other conditions than a fixed price, a limited field of operation or a restricted supply, as, for instance, in *Curran* v. *Galen* (1897) 152 N. Y. 33, where by contract a manufacturer bound himself to employ only members of a certain labor union. By a recent decision in New York there is an indication that in the case of patents as well the conditions which may be lawfully imposed are limited. *Straus* v. *American Publishers' Assn.* (1904) 177 N. Y. 473. In